

Journal of the House

State of Indiana

114th General Assembly

First Regular Session

Second Meeting Day

Tuesday Afternoon

January 4, 2005


The House convened at 1:30 p.m. with the Speaker in the Chair.

The invocation was offered by Pastor Aaron Rosenau, Our Shepard Lutheran Church, Indianapolis, the guest of Representative Robert W. Behning.

The Pledge of Allegiance to the Flag was led by Representative Behning.

The Speaker ordered the roll of the House to be called:

T. Adams	Klinker
Aguilera	Koch
Alderman	Kromkowski
Austin	Kuzman
Avery	L. Lawson
Ayres	Lehe
Bardon	Leonard
Bauer	J. Lutz
Becker	Mahern
Behning	Mays
Bischoff	McClain
Borders	Messer
Borrer	Micon
Bottorff	Moses
Bright	Murphy
C. Brown	Neese
T. Brown	Noe
Buck	Orentlicher
Budak	Oxley
Buell	Pelath
Burton	Pflum
Cheney	Pierce
Cherry	Pond
Cochran	Porter
Crawford	Reske
Crooks	Richardson
Davis	Ripley
Day	Robertson
Denbo	Ruppel
Dickinson	Saunders
Dobis	J. Smith
Dodge	V. Smith
Duncan	Stevenson
Dvorak	Stilwell
Espich	Stutzman
Foley	Summers
Friend	Thomas
Frizzell	Thompson
Fry	Tincher
GiaQuinta	Torr
Goodin	Turner
Grubb	Ulmer
Gutwein	VanHaaften
E. Harris	Walorski
T. Harris	Welch
Heim	Whetstone
Hinkle	Wolkins
Hoffman	Woodruff
Hoy	Yount
Kersey	Mr. Speaker

Roll Call 2: 98 present; 2 excused. The Speaker announced a quorum in attendance. [NOTE:  indicates those who were excused.]

HOUSE MOTION

Mr. Speaker: I move that when we do adjourn, we adjourn until Thursday, January 6, 2005 at 1:30 p.m.

BEHNING

Motion prevailed.

APPOINTMENT OF COMMITTEES

The Speaker announced the appointment of the following standing committees:

Agriculture and Rural Development

Republicans: Gutwein, Chair; Lehe, Vice Chair; Borders, Friend, Ruppel, Stutzman, Wolkins.

Democrats: Robertson, Ranking Minority Member; Bischoff, Bottorff, Grubb, Pflum.

Commerce, Economic Development and Small Business

Republicans: Borrer, Chair; T. Harris, Vice Chair; Heim, Murphy, J. Smith, Walorski, Yount.

Democrats: Reske, Ranking Minority Member; Crooks, Denbo, Mays, Orentlicher.

Courts and Criminal Code

Republicans: Ulmer, Chair; Dodge, Vice Chair; Ayres, Becker, Budak, Foley, Thomas.

Democrats: VanHaaften, Ranking Minority Member; Dvorak, L. Lawson, Porter, Tincher.

Education

Republicans: Behning, Chair; Noe, Vice Chair; T. Harris, Heim, Hinkle, Hoffman, Thompson.

Democrats: Porter, Ranking Minority Member; Cheney, Micon, Pflum, V. Smith.

Elections and Apportionment

Republicans: Thomas, Chair; Messer, Vice Chair; Becker, Behning, Burton, Murphy, Richardson.

Democrats: Mahern, Ranking Minority Member; Dickinson, Fry, Kromkowski, Robertson.

Employment and Labor

Republicans: Torr, Chair; Leonard, Vice Chair; Borrer, T. Brown, Buck, Gutwein, Lehe.

Democrats: Cheney, Ranking Minority Member; Dickinson, Kromkowski, Pierce, Stilwell.

Environmental Affairs

Republicans: Wolkins, Chair; Heim, Vice Chair; T. Harris, J. Lutz, Neese, Walorski, Yount.

Democrats: Dvorak, Ranking Minority Member; Hoy, Mahern, Micon, Pierce.

Family, Children and Human Affairs

Republicans: Budak, Chair; Walorski, Vice Chair; Becker, Foley, Heim, Ripley, Stutzman.

Democrats: Summers, Ranking Minority Member; Cheney, Dickinson, E. Harris, V. Smith.

Financial Institutions

Republicans: Burton, Chair; Woodruff, Vice Chair; Duncan, Hinkle, Hoffman, McClain, Ruppel.

Democrats: Bardon, Ranking Minority Member; Austin, Goodin, Mahern, Oxley.

Government and Regulatory Reform

Republicans: Buck, Chair; Walorski, Vice Chair; Borrer, T. Harris, Koch, Wolkins, Woodruff.

Democrats: Dobis, Ranking Minority Member; Moses, Pelath, Tinchler, VanHaaften.

Insurance

Republicans: Ripley, Chair; Borders, Vice Chair; Burton, Hoffman, Saunders, Torr, Whetstone.

Democrats: Fry, Ranking Minority Member; Bardon, C. Brown, Porter, V. Smith.

Judiciary

Republicans: Foley, Chair; Thomas, Vice Chair; Koch, Neese, Pond, Torr, Ulmer.

Democrats: L. Lawson, Ranking Minority Member; Bardon, Kuzman, Orentlicher, VanHaaften.

Local Government

Republicans: Hinkle, Chair; Saunders, Vice Chair; Borders, Buell, Dodge, Neese, Ripley.

Democrats: Moses, Ranking Minority Member; Denbo, Hoy, Oxley, Stevenson.

Natural Resources

Republicans: Hoffman, Chair; Ulmer, Vice Chair; Alderman, T. Brown, Friend, Gutwein, Lehe.

Democrats: Bischoff, Ranking Minority Member; Bottorff, Goodin, Grubb, Robertson.

Public Health

Republicans: Becker, Chair; T. Brown, Vice Chair; Behning, Budak, Dodge, Frizzell, Lehe.

Democrats: C. Brown, Ranking Minority Member; Fry, Mays, Orentlicher, Reske.

Public Policy and Veterans Affairs

Republicans: Alderman, Chair; Stutzman, Vice Chair; Duncan, Frizzell, J. Lutz, Turner, Whetstone.

Democrats: Kuzman, Ranking Minority Member; Austin, Crooks, Pelath, Summers.

Public Safety and Homeland Security

Republicans: Ruppel, Chair; Bright, Vice Chair; Alderman, Burton, Dodge, Duncan, Murphy.

Democrats: Tinchler, Ranking Minority Member; Bischoff, C. Brown, L. Lawson, Summers.

Roads and Transportation

Republicans: Duncan, Chair; Davis, Vice Chair; Buck, Gutwein, Saunders, Stutzman, Wolkins.

Democrats: Goodin, Ranking Minority Member; Hoy, Mays, Pflum, Stevenson.

Rules and Legislative Procedures

Republicans: Whetstone, Chair; Foley, Vice Chair; Alderman, T. Brown, Frizzell, Turner.

Democrats: Pelath, Ranking Minority Member; E. Harris, Oxley, Stilwell.

Technology, Research and Development

Republicans: Murphy, Chair; Koch, Vice Chair; Borrer, Cherry, J. Lutz, Thomas, Yount.

Democrats: Austin, Ranking Minority Member; Kuzman, Micon, Pierce, Reske.

Utilities and Energy

Republicans: J. Lutz, Chair; Frizzell, Vice Chair; Behning, Buck, Neese, Ruppel, Whetstone.

Democrats: Bottorff, Ranking Minority Member; Crooks, Dvorak, Moses, Stevenson.

Ways and Means

Republicans: Espich, Chair; Ayres, Vice Chair; Buell, Chair of Budget Subcommittee; Pond, Chair of Higher Education Subcommittee; Thompson, Chair of School Funding Subcommittee; Bright, Cherry, Davis, Leonard, McClain, Messer, Noe, J. Smith, Turner, Woodruff.

Democrats: Crawford, Ranking Minority Member; T. Adams, Aguilera, Avery, Cochran, Day, GiaQuinta, Kersey, Klinker, Welch.

The Speaker announced the appointment of the Statutory Committee on Ethics, the Statutory Committee on Interstate and International Cooperation, and the Committee on Joint Rules:

Statutory Committee on Ethics

Republicans: T. Brown, Chair; Hoffman, Vice Chair; Richardson.

Democrats: Stilwell, Ranking Minority Member; E. Harris, Kersey.

Statutory Committee on Interstate and International Cooperation

Republicans: Neese, Chair; Saunders, Vice Chair; Budak, Friend, Richardson, Torr, Ulmer.

Democrats: Kromkowski, Ranking Minority Member; Denbo, Dobis, Grubb, E. Harris.

Committee on Joint Rules

Republicans: Speaker Bosma (ex officio), Friend, Whetstone.

Democrats: Bauer, Pelath.

INTRODUCTION OF BILLS

The following bills were read a first time by title and referred to the respective committees:

HB 1003 — Borrer, T. Harris, Woodruff, Reske (Commerce, Economic Development and Small Business)

A BILL FOR AN ACT to amend the Indiana Code concerning economic development and to make an appropriation.

HB 1004 — Turner, McClain, Messer, Welch (Ways and Means)

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

HB 1021 — Burton, Bardon (Financial Institutions)

A BILL FOR AN ACT to amend the Indiana Code concerning trade regulation and consumer credit.

HB 1022 — Koch (Public Safety and Homeland Security)

A BILL FOR AN ACT to amend the Indiana Code concerning military bases.

- HB 1023** — Koch (Public Policy and Veterans Affairs)
A BILL FOR AN ACT to amend the Indiana Code concerning military affairs.
- HB 1024** — Koch (Ways and Means)
A BILL FOR AN ACT to amend the Indiana Code concerning taxation.
- HB 1025** — Koch (Public Safety and Homeland Security)
A BILL FOR AN ACT to amend the Indiana Code concerning local government.
- HB 1026** — Koch (Ways and Means)
A BILL FOR AN ACT to amend the Indiana Code concerning taxation and to make an appropriation.
- HB 1027** — Ruppel (Education)
A BILL FOR AN ACT to amend the Indiana Code concerning education.
- HB 1028** — Ulmer (Public Health)
A BILL FOR AN ACT to amend the Indiana Code concerning Medicaid.
- HB 1029** — Burton (Roads and Transportation)
A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.
- HB 1030** — Burton (Roads and Transportation)
A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.
- HB 1031** — Heim (Ways and Means)
A BILL FOR AN ACT to amend the Indiana Code concerning taxation.
- HB 1032** — Heim (Environmental Affairs)
A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.
- HB 1033** — Heim (Environmental Affairs)
A BILL FOR AN ACT to amend the Indiana Code concerning agriculture and animals.
- HB 1034** — Torr, J. Lutz, Mays, T. Adams (Commerce, Economic Development and Small Business)
A BILL FOR AN ACT to repeal a provision of the Indiana Code concerning general provisions.
- HB 1035** — Torr (Judiciary)
A BILL FOR AN ACT to amend the Indiana Code concerning commercial law.
- HB 1036** — Neese (Courts and Criminal Code)
A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.
- HB 1037** — Neese (Courts and Criminal Code)
A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.
- HB 1038** — Neese (Family, Children and Human Affairs)
A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.
- HB 1039** — Ayres, Ulmer, L. Lawson, Foley (Courts and Criminal Code)
A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.
- HB 1040** — Robertson (Utilities and Energy)
A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.
- HB 1041** — Duncan (Education)
A BILL FOR AN ACT to amend the Indiana Code concerning education.
- HB 1042** — Duncan (Public Policy and Veterans Affairs)
A BILL FOR AN ACT to amend the Indiana Code concerning alcohol and tobacco.
- HB 1043** — Koch (Commerce, Economic Development and Small Business)
A BILL FOR AN ACT to amend the Indiana Code concerning taxation.
- HB 1044** — Kersey (Courts and Criminal Code)
A BILL FOR AN ACT to amend the Indiana Code concerning trade regulation.
- HB 1045** — Kersey (Roads and Transportation)
A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.
- HB 1046** — Kersey (Courts and Criminal Code)
A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.
- HB 1047** — Kersey (Education)
A BILL FOR AN ACT to amend the Indiana Code concerning education.
- HB 1048** — Kersey (Public Policy and Veterans Affairs)
A BILL FOR AN ACT to amend the Indiana Code concerning pensions.
- HB 1049** — Torr (Family, Children and Human Affairs)
A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.
- HB 1051** — Borror (Employment and Labor)
A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety.
- HB 1052** — Borror (Government and Regulatory Reform)
A BILL FOR AN ACT to amend the Indiana Code concerning gaming.
- HB 1053** — Dodge (Courts and Criminal Code)
A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.
- HB 1054** — Ulmer (Environmental Affairs)
A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.
- HB 1055** — Ayres, Foley, Cheney, Thomas (Courts and Criminal Code)
A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.
- HB 1056** — Duncan, Foley, Budak, Cherry (Public Health)
A BILL FOR AN ACT to amend the Indiana Code concerning health.
- HB 1057** — Duncan (Roads and Transportation)
A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.
- HB 1058** — Duncan (Roads and Transportation)
A BILL FOR AN ACT to amend the Indiana Code concerning natural and cultural resources.
- HB 1059** — Grubb, Thomas (Environmental Affairs)
A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.
- HB 1060** — Grubb, Thomas (Commerce, Economic Development and Small Business)
A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.
- HB 1061** — Stilwell (Courts and Criminal Code)
A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

- HB 1062** — Burton, Grubb (Roads and Transportation)
A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.
- HB 1083** — Murphy (Ways and Means)
A BILL FOR AN ACT to repeal a provision of the Indiana Code concerning taxation.
- HB 1137** — Murphy (Technology, Research and Development)
A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

INTRODUCTION OF JOINT RESOLUTIONS

The following joint resolutions were read a first time by title and referred to the respective committees:

- HJR 1** — Koch (Judiciary)
A JOINT RESOLUTION proposing an amendment to Articles 10 and 13 of the Indiana Constitution concerning taxation.

Be it resolved by the General Assembly of the State of Indiana:

SECTION 1. The following amendment to the Constitution of the State of Indiana is proposed and agreed to by this, the One Hundred Fourteenth General Assembly of the State of Indiana, and is referred to the next General Assembly for reconsideration and agreement.

SECTION 2. ARTICLE 10, SECTION 1 OF THE CONSTITUTION OF THE STATE OF INDIANA IS AMENDED TO READ AS FOLLOWS: Section 1. (a) The General Assembly may exempt from property taxation any property **may provide, by law, for the levy and collection of a tax on property.**

(b) **If a property tax is authorized, the General Assembly** shall provide, by law, for a uniform and equal rate of property assessment and taxation and shall prescribe regulations to secure a just valuation for taxation of all property, both real and personal. **However,** the General Assembly may exempt from property taxation any property in any of the following classes:

- (1) Property being used for municipal, educational, literary, scientific, religious, or charitable purposes.
- (2) Tangible personal property other than property being held as an investment.
- (3) Intangible personal property.
- (4) Tangible real property, including curtilage, used as a principal place of residence by an:
 - (A) owner of the property;
 - (B) individual who is buying the tangible real property under a contract; or
 - (C) individual who has a beneficial interest in the owner of the tangible real property.

~~(b)~~ **In addition,** the General Assembly may exempt any motor vehicles, mobile homes, airplanes, boats, trailers, or similar property, provided that an excise tax in lieu of the property tax is substituted therefor.

SECTION 3. ARTICLE 13, SECTION 1 OF THE CONSTITUTION OF THE STATE OF INDIANA IS AMENDED TO READ AS FOLLOWS: Section 1. (a) No political or municipal corporation in this State shall ever become indebted, in any manner or for any purpose to an amount, in the aggregate, exceeding two per centum on the value of the taxable property within such corporation, to be ascertained by the last assessment for State and county taxes, previous to the incurring of such indebtedness; and all bonds or obligations, in excess of such amount, given by such corporations, shall be void. ~~Provided, That~~ **However,** in time of war, foreign invasion, or other great public calamity, on petition of a majority of the property owners in number and value, within the limits of such corporation, the public authorities, in their discretion, may incur obligations necessary for the public protection and defense to such amount as may be requested in such petition.

(b) **If the General Assembly does not authorize the imposition of a property tax, the General Assembly shall, by law, establish a limitation on the debt of a political or municipal corporation that is equivalent to the limitation imposed under subsection (a).**

- HJR 2** — Robertson (Judiciary)
A JOINT RESOLUTION proposing an amendment to Article 1 of the Indiana Constitution concerning marriage.

Be it resolved by the General Assembly of the State of Indiana:

SECTION 1. The following amendment to the Constitution of the State of Indiana is proposed and agreed to by this, the One Hundred Fourteenth General Assembly of the State of Indiana, and is referred to the next General Assembly for reconsideration and agreement.

SECTION 2. ARTICLE 1 OF THE CONSTITUTION OF THE STATE OF INDIANA IS AMENDED BY ADDING A NEW SECTION TO READ AS FOLLOWS: **Section 38. Only marriage between a man and a woman is valid in Indiana.**

- HJR 3** — Ruppel (Judiciary)
A JOINT RESOLUTION proposing an amendment to Article 1 of the Constitution of the State of Indiana by adding a new Section concerning marriage.

Be it resolved by the General Assembly of the State of Indiana:

SECTION 1. The following amendment to the Constitution of the State of Indiana is proposed and agreed to by this, the One Hundred Fourteenth General Assembly of the State of Indiana, and is referred to the next General Assembly for reconsideration and agreement.

SECTION 2. ARTICLE 1 OF THE CONSTITUTION OF THE STATE OF INDIANA IS AMENDED BY ADDING A NEW SECTION TO READ AS FOLLOWS: **Section 38. (a) Marriage in Indiana consists only of the union of a man and a woman.**

(b) **This Constitution or any other Indiana law may not be construed to require that marital status or the legal incidents of marriage be conferred upon unmarried couples or groups.**

- HJR 4** — Ulmer (Judiciary)
A JOINT RESOLUTION proposing an amendment to Article 1 of the Indiana Constitution concerning the bill of rights.

Be it resolved by the General Assembly of the State of Indiana:

SECTION 1. The following amendment to the Constitution of the State of Indiana is proposed and agreed to by this, the One Hundred Fourteenth General Assembly of the State of Indiana, and is referred to the next General Assembly for reconsideration and agreement.

SECTION 2. ARTICLE 1 OF THE CONSTITUTION OF THE STATE OF INDIANA IS AMENDED BY ADDING A NEW SECTION TO READ AS FOLLOWS: **Section 38. The people have a right to hunt, fish, and harvest game, subject to laws prescribed by the General Assembly and rules prescribed by virtue of the authority of the General Assembly.**

RESOLUTIONS ON FIRST READING

House Resolution 1

Representative Friend introduced House Resolution 1:

A HOUSE RESOLUTION offering our condolences, prayers, and support to the victims and their families of the Indian Ocean earthquake and the resulting tsunamis.

Whereas, More than 150,000 people are believed to be dead or missing in twelve countries in Southeast Asia and Africa as a result of the tsunamis and earthquake;

Whereas, Five million people have been displaced by this natural disaster and need the basic staples of food and shelter during this critical time;

Whereas, The United States Flag will be flown at half-staff at all public buildings and grounds out of respect for the victims of the Indian Ocean earthquake and the resulting tsunamis;

Whereas, The people of the United States and around the world have shown their amazing generosity with their pledge to donate billions of dollars of supplies and aid; and

Whereas, Hoosiers are also mobilizing to send aid through their churches, civic groups, and their local Red Cross: Therefore,

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana:

SECTION 1. That the Indiana House of Representatives respectfully mourns the victims of this natural disaster.

SECTION 2. That the Indiana House of Representatives sends condolences to the countries affected by this tragic earthquake and tsunamis.

The resolution was read a first time and adopted by voice vote.

OTHER BUSINESS ON THE SPEAKER'S TABLE

Pursuant to House Rule 60, committee meetings were announced.

The House recessed until the fall of the gavel.

RECESS

The House reconvened at 3:05 p.m. with the Speaker in the Chair.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Mr. Speaker: Your Committee on Financial Institutions, to which was referred House Bill 1021, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 9, nays 0.

WOODRUFF, Vice Chair

Report adopted.

OTHER BUSINESS ON THE SPEAKER'S TABLE

On the motion of Representative Bauer, the House adjourned at 3:07 p.m., this fourth day of January, 2005, until Thursday, January 6, 2005, at 1:30 p.m.

BRIAN C. BOSMA

Speaker of the House of Representatives

M. CAROLINE SPOTTS

Principal Clerk of the House of Representatives